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DIGEST OF RECENT VIRGINIA DECISIONS.**Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

CITY OF RICHMOND *v.* GOODWYN et al.

June 15, 1922.

[112 S. E. 787.]

1. Appeal and Error (§ 38*)—Writ of Error Lies to Supreme Court in Contest Over Interest Payable in Condemnation Proceeding; "Just Compensation."—Under Const. 1902, § 88, providing that the Supreme Court of Appeals shall have jurisdiction in civil cases where the matter in controversy is less than \$300 except in controversies concerning the title to or boundaries of land, the condemnation of property, or some other matter not merely pecuniary, and Code 1919, § 6336, providing that a person aggrieved by a judgment in the condemnation of property irrespective of the amount involved may present a petition for a writ of error or supersedeas to the judgment, where the question in dispute was the right of owners of condemned land to interest amounting to \$236, on the value of the land, granting a writ of error to the Supreme Court was not error, since the payment of interest constitutes a part of the "just compensation" which must be paid by the condemnor.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 96.]

2. Eminent Domain (§ 71*)—An Essential Element in Compensation Cannot Be Excluded Even by Legislative Enactment.—In eminent domain proceedings, whatever is an essential element in just compensation cannot be excluded, even by legislative enactment.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 88.]

3. Eminent Domain (§ 247 (2)*)—Interest Begins to Accrue on Value of Property Taken Three Months after Filing of Commissioners' Report.—Under Code 1919, § 4372, providing that when after payment into court the award exceeds what was so paid, the condemning party shall pay interest on the excess from the date of the award until payment thereof, and section 4369, providing for the confirmation of a commissioner's report, and that the sum so ascertained shall be a just compensation, and section 4387, providing that, if the award is not paid within three months from the date of filing, the proceedings shall be vacated, interest is not payable on the amount found due for land taken by eminent domain until three months after the filing of the commissioners' report.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 96.]

Error to Hustings Court of Richmond.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

Proceeding by the City of Richmond against H. W. Goodwyn and others. From a judgment allowing defendants interest on the value of certain condemned land from the date of the filing a commissioners' report, plaintiff brings error. Amended and affirmed.

H. R. Pollard and *Geo. Wayne Anderson*, both of Richmond, for plaintiff in error.

A. W. Patterson and *H. W. Goodwyn*, both of Richmond, for defendants in error.

COMMONWEALTH ex rel. CITY OF PORTSMOUTH v. PORTSMOUTH GAS CO.

June 15, 1922.

[112 S. E. 792.]

1. Quo Warranto (§ 52*)—Demurrer Admits Facts But Not Conclusions.—A demurrer to an information in the nature of a writ of quo warranto admitted the facts, but not the conclusions of law stated in the information.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 463.]

2. Corporations (§ 37*)—Amendment of Charter to Extend Period of Existence Does Not Break Continuity of Existence.—The amendment of a charter of a gas company by extending it for a further period did not constitute a lapse or break in the corporate existence of the company.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 546.]

3. Municipal Corporations (§ 680, 681 (1*))—Legislative Authority to Grant Franchises for Use of Streets Held Conferred.—A town or city must have legislative authority to grant franchises for the use of its streets, but such authority was conferred by Code 1849, c. 56, § 23, providing that no company should occupy the streets of any town until the corporate authorities should have assented thereto.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 167.]

4. Gas (§ 7 (1*))—Franchise to Use Streets Held Not Limited to Time Specified.—A resolution of a municipal council, granting a gas company the exclusive privilege for 15 years of laying its pipes through the street, did not expressly or by necessary implication limit the right to use the streets to 15 years, and where for more than 60 years it continued to use the streets and, pursuant to contracts, furnished gas for the streets and public buildings, it had the municipality consent to the use of the streets for an indefinite time.

[Ed. Note.—For other cases, see 6 Va.-W. Va. Enc. Dig. 704.]

5. Gas (§ 7 (1*))—Matters to Be Considered in Construing Franchises to Use Streets Stated.—Where resolution of a municipal council granting a gas company the right to use the streets did not ex-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.